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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,122	07/08/2003	Motoya Hayase	JCF-0002	9090

7590 07/13/2007  
Mills & Onello  
Suite 605  
Eleven Beacon Street  
Boston, MA 02108

EXAMINER
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STIGELL, THEODORE J

ART UNIT	PAPER NUMBER
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3763

MAIL DATE	DELIVERY MODE
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07/13/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/615,122

Applicant(s)

HAYASE ET AL.

Examiner

Theodore J. Stigell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 May 0207.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 5, 10, 11 and 17-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-9 and 12-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3, 6-9, and 12-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Klein et al. (5,242,460). Klein discloses a catheter (110) for insertion into a biological conduit comprising an elongate catheter shaft (112) having a proximal end and a distal end, a material collection chamber (140) located within the catheter shaft, a controllably arcuate segment (114) formed in the shaft and including at least one opening (132) configured to receive into the shaft a material exteriorly proximate to the opening, a sliding member (118) movably disposed within the shaft and configured to selectively traverse the at least one opening to move the material received through the opening into the chamber and away from the opening, further comprising an aspiration chamber (124) near the proximal end and in fluid communication with the material collection chamber, wherein a portion of the material collection chamber is proximal to the controllably arcuate segment, further comprising a material extraction lumen, wherein the arcuate segment has a normally bowed bias, and wherein the positioning of the sliding member within the segment can cause the segment to be relatively straight,

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wherein the sliding member has a cutting edge and the sliding member is attached to a flexible shaft (122), and further comprising a rotational orientation element (126).

Claims 1-4, 6-9 and 12-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Edwards et al. (6,325,798). See Figure 65 and respective portions of the specification. Edwards discloses a catheter (236) for insertion into a biological conduit comprising an elongate catheter shaft (236) having a proximal end and a distal end, a material collection chamber (lumen of 226) located within the catheter shaft, a controllably arcuate segment (218) formed in the shaft and including at least one opening configured to receive into the shaft a material exteriorly proximate to the opening, a sliding member (234) movably disposed within the shaft and configured to selectively traverse the at least one opening to move the material received through the opening into the chamber and away from the opening, further comprising an aspiration chamber (28) near the proximal end and in fluid communication with the material collection chamber and suction means (46) near the proximal end, wherein the material collection chamber is proximal to the controllably arcuate segment, further comprising a material extraction lumen, wherein the arcuate segment has a normally bowed bias, and wherein the positioning of the sliding member within the segment can cause the segment to be relatively straight, wherein the sliding member has a cutting edge and the sliding member is attached to a flexible shaft (134), and further comprising a rotational orientation element.

***Response to Arguments***

Applicant's arguments with respect to claims 1-4, 6-9 and 12-16 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theodore J. Stigell whose telephone number is 571-272-8759. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Theodore J. Stigell

  
Primary Examiner